85-2018

Supreme Court, U.S.
FILED
JUN 9 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

ON WRIT OF CERTIORARI TO THE COURT

OF APPEALS OF MARYLAND

APPENDIX TO PETITION FOR WRIT:

k. APPENDIX: ORDERS, OPINION,

JUDGMENT AND OTHER MATERIAL

ARTHUR KUNGLE, JR.
P. O. Box 365
Annapolis, Maryland
21404
(301) 263-9080
Pro Se

70 pgs
foldout

(k)(ii) IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record - 134
Plaintiff	:	
vs.	:	No. 3106024
ST JOHN'S FOLLEGE, et al:		
Defendants	:	Entered 9-24-84

ORDER

Came on to be heard the 20th day of September, 1984, Defendants' Motion to Strike Plaintiff's Complaint and Demand for Jury Trial, Amendment of Bill of Complaint, Amended Complaint According to Pre Trial Conference, and Corrective Amendments to Complaint Amended According to the Pre Trail Conference, and the Court having reviewed the arguments and submissions of the parties relating

thereto, it is accordingly this 24th day of September, 1984, by the Circuit Court for Anne Arundel County, Maryland,

ORDERED, ADJUDGED and DECREED that Plaintiff's Complaint and Demand for Jury Trial, Amendment of Bill Complaint, Amended Complaint According to Pre Trial Conference, and Corrective Amendments of Complaint Amended According to Pre Trial Conference, be and hereby are stricken; and it is further

ORDERED, ADJUDGED and DECREED that Plaintiff be and hereby is given leave to file amended or revised pleadings, which comply with the Maryland Rules, on or before October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that no further leave to file amended

or revised pleadings will be afforded to Plaintiff in the event Plaintiff does not file the pleadings aforesaid by October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that any and all discovery in this cause be and hereby is stayed pending Plaintiff's compliance with the provisions of this Order.

/s/ Martin A. Wolf
Martin A. Wolf
Judge, Circuit Court
for Anne Arundel
County

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record
	:	- 179
Plaintiff	:	
	:	
vs.	:	No. 3106024
	:	
ST. JOHN'S COLLEGE	:	
EDWIN J. DELATTRE	:	Entered
JEROME LAPIDES	:	
SAMUEL KUTLER	:	1-10-85
EDWARD SPARROW	:	
BRYCE JACOBSEN	:	
	:	
Defendants	:	

ORDER

Came on to be heard the 7th day of January, 1985, Defendants' Motion to Strike Plaintiff's Third Amended Complaint and to Dismiss the cause of action pending herein, and the Court having heard and reviewed the arguments and submissions of the parties relating thereto, it is, accordingly, this 10th day of January, 1985, by the Circuit Court for Anne Arundel County, Maryland,

ORDERED, ADJUDGED and DECREED that Plaintiff has not complied with the Order of this Court, entered on September 24, 1984, requiring Plaintiff to file amended or revised pleadings which conform to the Maryland Rules on or before October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that as Plaintiff's Third Amended Complaint does not comply with the Maryland Rules aforesaid, it is hereby stricken; and it is further

ORDERED, ADJUDGED and DECREED that, as Plaintiff is to be afforded no further leave to file amended pleadings under the Court's Order of September 24, 1984, and as all Plaintiff's pleadings have been stricken, the cause pending herein be and hereby is dismissed, with

prejudice. Costs to be paid by plaintiff.

MARTIN A. WOLF
Judge, Circuit
Court for Anne
Arundel County

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record - 239
Plaintiff	:	
vs.	:	No. 3106024
ST. JOHN'S COLLEGE,	:	Entered
et. al.	:	2-1-85
Defendants	:	

ORDER

ORDERED, ADJUDGED, and DECREED that Plaintiff's Motion to Alter or Amend Judgment, filed herein on January 21, 1985, be and hereby is stricken; and it is further

ORDERED, ADJUDGED and DECREED that this Court's Order of January 10, 1985, dismissing the cause herein, is in full force and effect.

JUDGE

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 333

September Term, 1985

ARTHUR K NGLE, JR.

-

V.

ST. JOHN'S COLLEGE, ET AL.

Moylan
Garrity
Bell, Rosalyn B.

PER CURIAM

FILED: November 26, 1985

k - 8

Arthur Kungle, Jr., initiated an action in the Circuit Court of Anne Arundel County against St. John's College and several of its officers and trustees. Kungle filed four sets of pleadings with the court below: a "Complaint and Demand for Jury Trial," and "Amendment of Bill of Complaint," and "Amended Complaint According to Pre Trial Conference: and a "Revised Complaint." In addition, he filed an "Amendment of Caption," and "Amendment of Complaint or Pleadings to Show Correspondence" with twenty-eight attachments, a "Correction of Amendment of Complaint or Pleadings to Show Correspondence Which was Presented at Hearing on Motions," a "Supplement to Revised Complaint," and a "Supplement

to Correspondence Appended at Hearing."

On three separate occasions St. John's moved to strike Kungle's pleadings, submitting that his pleadings were unintelligible and not in compliance with the Maryland Rules. After Kungle's fourth attempt to amend, the court struck his last pleading and dismissed the complaint with prejudice. The court noted:

> "THE COURT: That not for one moment do I doubt the seriousness of the Plaintiff Arthur Kungle in this matter. And I don't doubt that he has been diligent and worked hard to try and perfect a claim against Saint [sic] John's College and other defendants named in his pleadings. As I pointed out at the last hearing, the law is complicated. It's not easy. One cannot always sit down and draft a proper pleading,

[1/2]

nor can one always draw articles of incorporation or other legal documents unless one has some training or is awful lucky and skillful to [sic] -- both together, being skillful is the ability to research and lucky that you've done it right. In this case, there have been a number of pleadings that have been filed. And the last time you came it, I gave the Plaintiff the right to within thirty days to file an amended bill in this case with an intelligible one which could be responded to, and one that could bring the case into a posture where the defendants could answer and put the case at issue. I am never one to throw out cases on minor defects. And if you're talking margins don't meet the requirement, if the paper's a quarter of an inch shorter, that's never going to be grounds to throw out a case. The idea being that litigants should get their day in court. They should have a right to come in and have their complaint heard. Now at the last time, I suggested to the Plaintiff that he ought to [get] legal assistance, that the matters from I tried to glean from his argument that he wished

> to raise were not properly raised. They were in a position or placed there on paper in a manner that on one could really understand them. And since then, he has filed an amended or revised complaint. That I as well as my staff have gone over this and I can't get heads nor tails out of it, much like the defendants in this case. That I can't determine the exact nature of his complaint, what relief he says he's entitled to. It reads with a lot of citations and quotes, but the bottom line, what is this case about, and I cannot determine."

2/3

Mr. Kungle moved to alter or amend the judgment. The court stuck the motion and declared its original order in full force and effect.

Mr. Kungle seeks here to appeal the denial of his motion. In response, St. John's College has presented us with two motions to dismiss Mr. Kungle's appeal.

Normally at this juncture we would set our a brief exposition of the issues and facts surrounding the controversy. We are incapable of doing so here. We have considered the briefs, appellant's record extract, appellant's reply brief and the complete record itself. We are unable to answer the seven questions raised by appellant primarily because we are unable to distill the issues presented. Of even more immediacy, we are unable to provide the reader with a statement of the facts in this case. We are baffled about what did transpire between appellant and the college, and it is not our function to speculate on the validity of appellant's contentions. We are regrettably left with no alternative

but to dismiss this appeal.

Appellees first move to dismiss this appeal pursuant to Rules 1031(a) and (c) and 1035(b)(7). Rule 1031.a sets out the required style of an appellate brief, with reference to the bond of paper, width of margins, typespace, and color of the cover. Subsection (c) of the rule, in part, provides:

"Contents of Appellant's Brief.

* * * * * * * *

" 2. Statement of the Case - Questions Presented.

"...The statement of the questions presented shall indicate the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail."

* * * * * * * *

"4. Statement of Facts.

A clear and concise statement of the facts material to a determination of the questions presented ...."

"5. Argument.

Argument in support of the position of the appellant." Rule 1035(b)(7) allows for dismissal of an appeal if the style, contents, size, format, legibility or method of reproduction of a brief, appendix or printed record extract does not comply with Rule 1031.

As we stated in Kemp-Pontiac-Cadillac v. S & M Constr., 33 Md. App. 516 (1976):[4/5]

> "These rules are to promote the orderly and effective administration of justice. They are to be read and carefully followed by [litigants]. Whether to dismiss the appeal or not in the event of violation of the above rules, rests in the discretion of this Court."

Id. at 521.

Appellees contend that appellant's brief is replete with style violations of Rule 1031(a) including illegible duplications and merger of the statement of facts with the argument. They further maintain that the "disjointed, scatter-shot nature of Kungle's argument, assertions and prose makes Kungle's brief virtually incomprehensible" under subsection (c).

While we might be inclined to bend this Court's procedural rules to accomodate a litigant representing himself, we cannot condone the manner in which appellant has subverted our procedure in the presentation of this case. Appellant has supplied us with incomprehensible, disorganized briefs

and record extract. His submission is inundated with violations of the mandatory rules of appellate procedure. It is not our function to search through the record to extrapolate the true nature of the issues. [5/6] Harman v. Harman, 61 Md. App. 554, 558 (1985). Nor are we empowered to determine the facts or arguments outside the confines of the case.

By way of example, the following excerpt was extracted from appellant's brief wherein he attempts to explain reference to international documents in his pleadings.

> "The reason for arguing international agreements, as we said or attemped to be said, in the 2nd (XII) & 3rd (XI) complaint and attempt to satisfy the good judges, was primarily "to inform and

infuse our domestic documents where they are lacking. (And perhaps Conway v. Social Services Admin 298 Md. 639, 650, agrees with Maryland's Declaration of Rights. See also, Paust, Human Dignity as a Constitutional Right, 27 Howard 145.) In the last complaint, references to the American Declaration of the Rights and Duties of Man, Art 26, was to a principle, which as Kilty was afraid, some have forgotten: presumption of innocence. Reference to 11.a.VII of the Helsinki Accord, on freedom of association, expression and conscience, repeats properly what we should have grown to. In 1776 Maryland's original draft of freedom of religion clause, was one for freedom of conscience. And even earlier Lord Mansfield, who opposed the American Revolution, is reported to have said "Conscience, my lords, is not controllable by human laws, nor amenable to human tribunals, persecution, or attempts to force concience, (sic) will never produce conviction, and can only be calculated to make hypocrites or martyrs." (American's friend) Lord Camden was said to rejoice to hear such noble sentiments.

(From a colleague he did not expect it from.)"

The attached appended page 6/7 was duplicated from the appendix attached to appellant's reply brief. He provides us with no introduction or explanation to it.

It is unfortunate for appellant that we are unable to decipher these paragraphs or the balance of his argument. There is no question in our minds that appellant has made serious and substantial attempts to conform with the procedural rules at the trial land appellate levels. It is clear form the 25 page brief with 12 page appendix, the 16 page reply brief with 11 page appendix, the 240 page record extract, the 59 case

citations, the 52 references to authoritative works including citations to "Ly Raym" and Cokes Reports," the references to the Maryland Rules, the federal and state constitutions, the federal rules, the Magna Carta, and various international documents, that appellant has spent uncountable hours in preparation of this case. Nevertheless, the law is not easy to understand, not is intricate procedure easily congnizable.

We do not dismiss appellant's efforts lightly. We understand that appellant is agrieved because he was excluded from the grounds of the school. We cannot discern from the brief, the extract or the record the relief he seeks or the basis upon

which he claims the court could grant any relief. So far as we can determine should we entertain appellant's assertions and reinstate his complaint, appellees and the court will be not more enlightened than before. Appellant was given numerous chances below to rectify his pleadings and failed each time. Our consideration of the procedural history of this case convinces us that appellant would not, if given another chance, be capable of submitting legally adequate pleadings. Regretfully, we dismiss this appeal pursuant to Md. Rules 1031(a)(c) and 1035(b)(7).1.

APPEAL DISMISSED. COST TO BE PAID BY APPELLANT.

1 Because of our ruling, we do not consider appellees' second motion to dismiss or the merits of this controversy.

MANDATE

COURT OF SPECIAL APPEALS

OF MARYLAND

Arthur Kungle Jr.

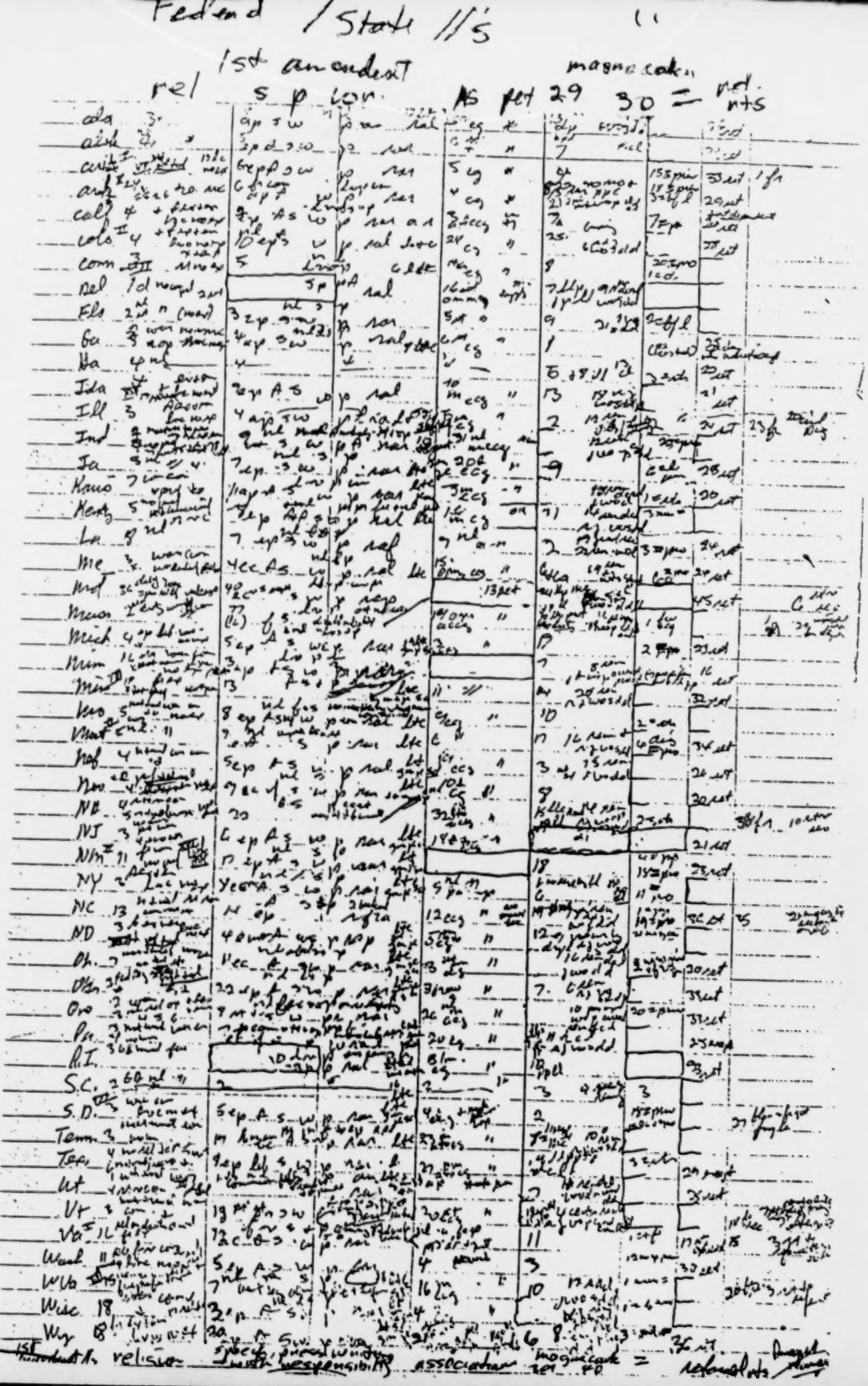
v.

St. John's College et al

No. 330, September Term, 1985

November 26, 1985: Per Curiam filed. Appeal dismissed. Costs to be paid by appellant. December 23, 1985: Motion for Reconsideration filed by appellant. December 30, 1985: Motion for Reconsideration denied.

December 30, 1985: Mandate issued.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(k)(iii) In the

Court of Appeals

of Maryland

(Entered 3-10-86)

ARTHUR KUNGLE, JR.

v.

ST. JOHN'S COLLEGE et al.

Petition Docket No. 574

September Term, 1985

(No. 330, September Term, 1985

Court of Special Appeals)

ORDER

Upon consideration of the

etition for a writ of certiorari to

the Court of Special Appeals in the above entitled case, and the answer filed thereto, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

s/s Robert C. Murphy
Chief Judge

Date: March 10, 1986

ST. JOHN'S COLLEGE (k)(iv)

Annapolis, Maryland 21404

Record - 96

May 22, 1981

Mr. Arthur Kungle

49 College Avenue

Annapolis, Maryland 21401

Dear Arthur,

I was glad to talk with you this morning about the matter of your relationship to the Annapolis campus of the College. And, as I said during our talk, I want now it put in writing the things I told you then about how that relationship must develop in the future. I need not

say again how much I dislike having to write in this vein, and especially to you.

1. you do not belong on the St. John's Annapolis campus, and therefore, pending another arrangement not yet made, I do not expect to see you on it any more. You may, however, for the rest of the summer, until Labor Day, and for the sake of terminating the projects on which you are now engaged, come on campus

   a. to monitor your air pollution measuring equipment on the roof of FSK;
   b. to complete the pollination procedures for the tulip and holly trees;
   c. to complete your projects involving the flowers and

plants you are growing in Mellon 203;

d. to tend to the roses and other flowers you have been taking care of on campus and especially the ones around Reverdy Johnson and the newly planted ones; and

e. to inspect the campus trees for the gypsy moth and the Dutch Elm disease.

You are not to go into any campus building except FSK and the Coffee Shop in McDowell Hall during the summer. There will no longer be a mailbox with your name on it, and all mail addressed to you at the College will be sent to 49 College Avenue. You should inform correspondents of this.

2. I will explore with the

President the possibility of your being offered a part-time position (20 hrs/week maximum) with the College in the fall for the purpose of working with the flowers, plants, and trees on campus. You may want to think about this too.

Arthur, it goes without saying that I thank you deeply for all the time, love, and energy you have put into the living beings on this campus over the years. You know, I think, that I only write this letter because it seems best, in view of some of the events of the past and present, but especially of the possible ones in the future, that we determine jointly, and now, that the time has come for a new beginning for you. This may, possible, involve the definition of a genuine place for you

in this community, a community for whose inner and outer good we both care so much.

As I told you, I am sending a copy of this letter to Mr. Delattre. I am also sending it to other persons who have some concern about the matter.

With all good wishes for you, Arthur, always, I am,

Very sincerely yours,

Edward G. Sparrow

Dean

cc.

Mr. Delattre
Mr. Milner
Mr. Wilson
Mr. Smith
Mr. Littleton
Miss Leonard
Mr. Dalrymple
Mrs. Kinzer
Mr. Jacobsen
Mrs. Mitchell
Mrs. Easterday
Mr. Elsey
Mr. Parran
Mr. Christensen
Mrs. Mylander
Dr. Kinzer
Mr. Maistrellis

Dear Dean Sparrow,

In response to the communications of 22 May 1981: the letter of that date seems to be in error and denotes confusion on your part: it is not addressed to me but to my father; relationships at St. John's College, Annapolis campus, are not properly determined by your flat; and it did not say what you said in what was less a talk than judgement following inquisitorial proceeding--which is well described by Hume where "the orimate, making himself, as was usual in spiritual courts, both judge and party, issued in summary manner the sentence of excommunication."

More particular wrongs are: Air

pollution monitoring is done by the state health department. Plants, gardens and the mailbox have been activities of the garden club. Holly and tulip tree pollination were functions of the Lush holly endeavor and the Liberty Tree Project. I suggest you contact these organizations about stopping their work. As for me, I gave up gardening at St. John's at your command: "if you can't agree to our terms, let everything die." Many maturing trees & shrubs in the garden club's nursery were thrown, given or stolen away--except the first, in violation of the agriculture distribution laws. Such was the fate of flowers for the fall to grave the campus and

student and alumni gardeners. Roses, shrubs and trees were unfortunately abandoned to insects, disease and decay.

With regard to limited access to the campus: by the civil rights, public accomodation and historic district laws, and without posted rules, citizens are free to visit the campus: by state and federal Health and Civil Defense laws: agents have right of entry; ;and finally by the policy of the college (art. I & XIII): alumni are members of the community unlimited by space or time, except by the Maryland Declaration of Rights (henceforth MDR)--this has not been observed.

The lure of a part-time job at $30 an hour or more is strong. It certainly would be a relief. But the

conditions of employment stated are to correct my being and doing: namely my exercise of the fundamental freedoms of speech, press, religion, association and conscience. You want me to grow pretty plants for you, but to stay away from the people and to shut up about truth & justice, liberty & equality, and the educability of all people--or else "move, get out of town", "go care about some other place!". It is clear that what is wanted here is a way to keep me "in my place" and liquidate me if I do or say anything other than what you think and believe. This is a clear violation, besides the polity, of the Articles of Confederation and US Constitution on the mails, the charter, the Missouri and US Bills of Rights (and

a host of court decisions), the UN Declaration of Human Rights (especially art. 16-20, 27) and the 1975 Conference on Security and Cooperation in Europe accord (1.a.VII), on association and conscience, as well as and like MDR on the press and speech (art. 40) and religion (art. 36) and also article 24:

"That no mane ought to be taken or imprisoned or disseived, or deprived of his freedom, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property but by the judgment of his peers, or by the Law of the Land."

It may be pretended that the college is private and separate from the state, and such does its members

pretend to be above and beyond. But MDR of 1867 and today is derived from MDR of 1776 (thus 24 was:21, 40:38, 36:33; consider also 13:11, 19:17, 20:18, among others) and that was written by teh Carrolls, Chase & Paca, who later founded the college, before they decided on the form of government. Therefore, it is absurd to claim that the Maryland Signers of the Declaration of Independence did not mean MDR, with equal authority to the charter, to apply to the college. Moreover that Key Article 24(:21) was no mean August invention of theirs but is based on what was agreed to in 1215. As Hume says: "this famous deed, commonly called the GREAT CHARTER, either granted or secured very important liberties and privileges to every order of men in

the kingdom; to the clergy, to the barons, and to the people."

(per Magna Charta Cii test:39:40:

Nullus liber homo capiatur, vel imprisonetur, aut disseisatur, aut utlagetur, aut exuletur, aut aliquo mode destrustur, nec auper eum ibimus, nec super eum mittemus, nisi pe legale judicium perium avorum vel pe legem terre. Nulli vendemus, nulli negabimus sut differemus rectum aut justiciam.

Or as confirmed by statute in 1227:

Edward by the grace of god, King of England..Know ye that we..have given and granted to all archbishops, Bishops, Abbots, Priors, Earls, Barrons, and to all freemen of this our realm, these liberties following to be kept in our kingdom of England for ever.

(29) No Freeman shall be taken, or imprisoned, or be disseized of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, but by lawful Judgement of his Peers, or by the Law of the Land. We will sell no man, we will not deny or defer to any man either Justice or Right.)

"...the principal articles (were) calculated for the interest of the barons; and had the charter contained nothing further, national happiness and liberty had been very little promoted by it, as it would only have tended to increase the power and independence of an order of men who were already too powerful, and whose yoke might have become more heavy on

the people than even that of an absolute monarch. But the barons, who alone drew and imposed on the prince this memorable charter, were necessitated to insert in it other clauses of a more extensive and more beneficient nature: they could not expect the concurrence of the people without comprehending, together with their own, the interest of interior ranks of men; and all provisions, which the barons, for their won sake, were obliged to make, in order to insure the free and equitable administration of justice, tended directly to the benefit of the whole community."

You may be part of the leading element in the revolutionary party directing the new program and dictate to students and staff, if not lead

and direct by dialectic, but that is as much due to contract as to charter. Certainly alumni are not of your order, nor are we peers of Olympians, many of us have gone back to being simply Americans.

I can not in good conscience work for the ruling regieme at the college. What you call events are better termed calumny. If you have cause, then charge me, arrest me on sight. But I doubt you do. Do what you will, I give up gardening for now but I defend those truths of liberty, recognized from Runnymede to Helsinki by way of Annapolis and America, and therefore I declare that this attempt to banish me is null and void under articles 16 & 17, Chapter 37, Statutes or Acts of Maryland, 1784, and, as Reverdy Johnson said,

appealable.

May Heaven help humanity, God bless America, the Lord love the Liberty Tree, and save St. John's!

Sincerely,

Arthur Kungle, Jr.

cc:

Mr. Delattre
Mr. Milner
Mr. Wilson
Mr. Smith
Mr. Littleton
Mr. Dalrymple
Mr. Savcy
Mrs. Kinzer
Mr. Jacobsen
not Mrs. Mitchell
Mrs. Easterday
Mr. Daddario
Mr. Grey
Dr. Fox
Dr. Laguardia
Dr. Horvath
Mr. Ficco
Mr. Hartzell
Mr. Norton
Ms. Polk King
Mr. King
Mr. Szabo
Mr. Rada

Mr. Elzey

Mr. Parran

Mr. Christensen

Mrs. Myland

Dr. Kinzer

Mr. Maistrellis

Ms. Brown

Mr. Raditss

Mr. Zeiderman

Mr. Rote

Mr. Davidson

Mr. Clendenin

Mr. Plaut

Mr. Heal

& co.

AFFIDAVIT OF ROBERT VINCENT

Record Sept. 20, 1984

- 128

To Whom It May Concern:

I am a graduate of St. John's College, Annapolis, Maryland. I have known Arthur Kungle, Jr. for over four years. In my years at St. John's Mr. Kungle and I have become good friends. Based on this experience I wish to declare that Mr. Kungle was not a hazard to my education or personal growth, infact quite the opposite. Nor do I believe that Mr. Kungle had a hazardous effect on other students at St. John's College.

k - 40

I solemnly affirm under penalty of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Sincerely,

Robert F. Vincent

IN THE CIRCUIT COURT OF

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR, ET AL.

Record

- 129

Plaintiff(s)

vs.

ST. JOHN'S COLLEGE, et al.

Defendant(s)

Case No, 3106024

AFFIDAVIT OF MARY PUTNIK

September 19, 1984

To The Honored Court:

I have know Mr. Kungle since I came to St. John's as a freshman in September 1980. During the time that Mr. Kungle was permitted access to the campus he was involved in such activities as assisting with the school drive, taking care of the flowers, participating in athletics,

and preserving the Liberty Tree. At no time have I considered Mr. Kungle, or these sorts of activities, to be "dangerous".

Rather I have know him as a person concerned about the students and issues pertaining to freedom and liberty. I know that during 1980 he had many friends on campus and was always willing to provide any assistance possible.

In closing, to the best of my knowledge and recollection, Mr. Kungle was not a threat or danger to the students of St. John's. I attest that the above statements are true.

Miss Mary Patrick

AFFIDAVIT OF JEFFREY WALL

19 September, 1984

Record - 131

Jeffrey D. Wall
70 Maryland Ave.
Annapolis, MD 21401

To Whom it may concern:

I, Jeffrey D. Wall, hereby submit in writing my statment affirming the good character of Arthur Kungle, Jr.; the decency and civility of his speech and actions; and the honorable expressions of his kindness and compassion.

Mr. Kungle and I have been friends for over five years. I can attest to the fact that he is in no way a danger to any person, nor has he in that time ever been a danger to any person. He has not violated any

common code of behavior or any regulated mode of behavior; rather he has vehemently upheld the law and morale and traditions of our society. Never have I know him to intend or carry out or bring about an injustice upon any individual or community. His ethical and moral values are well know and greatly respected by me.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Sincerely,

Jeffrey D. Wall

IN THE CIRCUIT COURT OF

ANNE ARUNDEL COUNT, MARYLAND

ARTHUR KUNGLE JR, ET AL.

Record

- 132 Plantiff(s)

vs.

ST JOHN'S COLLEGE, el al.

Defendant(s)

Case No. 3106024

AFFIDAVIT OF

JEREMY LAUER

It seems odd to me that my rights of freedom of speech, association and thought have been abridged insofar as Arthur Kungle and myself have not been permitted to exercise these rights on the campus of St. John's College, Annapolis, Md. As I am a student and Mr. Kungle, an alumnus and a man of admirable moral character, and St. John's an

institution of education, thought, and learning, not only in the classroom but also insofar as it allows dialogue between thinking individuals, it seems to me that St. John's has acted ultra vires in not permitting Mr. Kungle on campus.

Witness

Nathan Walker

Douglas Seny

Jeremy Lauer

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR el al

Record Plantiff(s)

- 176 vs.

ST JOHN'S COLLEGE et al

Defendants

No. 3106024

AFFIDAVIT

My education at St. John's College, Annapolis, Md. was in no way prevented or disrupted by the plaintiff, Arthur Kungle. My security was never put at hazard, nor was my life every put in danger by the Plaintiff.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING PAPER ARE TRUE TO THE BEST OF MY KNOWLEDGE,

INFORMATION, AND BELIEF.

Mark M. Ainsworth

Commonwealth of Massachusetts

County of Worcester

On the 31st day of December, Mark Ainsworth appeared before me at Athol Massachusetts, swore to the truth of the above and signed before me.

Robert W. Peterson

Notary Public

My commission expires:

December 12, 1981

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR el al

Record Plaintiff(s)

- 177 vs

ST JOHN'S COLLEGE et al

Defendants

No. 3106024

M. L. COUGHLIN

Editorial Services

31 Maryland Ave.

Annapolis, MD 21401

(301) 269-0978

January 5, 1985

To whom it may concern:

This is to attest that, during the time I was a student at St. John's

College (September 1969 to June 1973), I was well acquainted with Mr. Arthur Kungle of Annapolis, and at no time did Mr. Kungle disturb or impede the progress of my studies at St. John's.

J. L. Coughlin

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.,

Record Plaintiff

- 178 v.

ST. JOHN'S COLLEGE, et al.,

Defendants

No. 3106024

AFFIDAVIT OF MARK W. KELLEY

I, Mark W. Kelley, a resident of San Francisco, California, do hereby state:

1. The matters stated herein are made upon personal knowledge, and I am competent to testify as a witness to same.

2. I am an attorney at law, employed in San Francisco, California. k - 52

3. I attended St. John's College, defendant herein, during the academic years of 1975-1975.

4. While a student at St. John's, I had occasion to come into contact with Arthur Kungle, Jr., plaintiff herein. Mr. Kungle at that time enjoyed free access to the campus and various functions held there.

5. I found Mr. Kungle to be an interesting and worthwhile addition to the college environment. He was a bright and literate man who provided a welcome viewpoint on topics academic and general; a benefit, rather than a hindrance, to my education. He was, further, an essential part of the athletics program. In my experience, he at no time constituted a hazard to personal

safety or a disruptive influence in the legitimate operations of the college.

6. I solemnly affirm under penalties of perjury upon personal knowledge that the contents of the foregoing paper are true.

Dated: December 28, 1984

Mark W. Kelley

Friends of Liberty know the importance of frequent Recurrence to fundamental Principles, Inc.

Appellant's Brief Apx. 26

50 Maryland Ave.
Annapolis,
Maryland 21401

410 S. State St.
Dover,
Delaware 19901

March 25, 1984
Maryland Day
on her 350th anniversary
Draft of note on Due Process of Law and Maryland's successor clauses & statutes to the Great Chapters of Magna Carta.

The principle that no person shall "be deprived of life, liberty or property, without due process of law" is stated in the 5th and 14th Amendments to the United States of America's (federal) constitution. Maryland was earlier founded on preceding principles: in its Declaration of Rights in 1776: 21. That no freeman ought to be taken or imprisoned, or disseized of his

freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by any manner destroyed, or deprived of his life, liberty or property, but by the judgement of his peers, or by the law of the land; (1984 MDR, Art. 24); & 17. That every freeman, for any injury done to him in his person, or property, ought to have a remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without denial, and speedily without delay, according to the law of the land. (1984 MDR equivalent, Art 21). These articles are direct descendants of, and almost word for word translations of, chapters 39 & 40 of Magna Carta (which, according to Daniel Dulaney,

The Right of the Inhabitants of Maryland to the Benefit of the English Laws (in A.E.D. Howard's The Road from Rynnymede), article "is not long, and ought to be read by every Body, and (in my humble Opinion,) taught to Children, with their first Rudiments..." Almost all other states have similar provisions in their state or commonwealth constitutions. And these principles have been discovered or decided by courts as part of common law, or the "rule of natural rights" (See Okeck: Non-profit Corporations), and perhaps this is especially true in regions without articulate constitutional provisions. But Maryland has more: Chancellor Kitty at the request of the legislature decided (A Report of all such English Statute..., 1811,

compare Art 5 (Art 3, 1776) that Magna Carta, a Confirmation of Liberties, was Found Applicable but not proper to be incorporated because (in this case) they were "established by our own declaration in 1776" and considering "the propriety of resting our rights upon our own charters..." but 28 Edw. III, Cap 3, (1354) (No person shall be condemned without his answer) is a Statement Found Applicable for the "long enjoyment of a right may make people forget the origin of it": "That no man of what Estate of Condition that he be, shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to Death, without being brought in answer by due Process of Law". ("Item qe nul homme de quel estate our condicion

qil soit ne oit oste de terre de de tenement ne pris nemprisons ne desherite ne mis a la mort saunz estre mense en respos par due proces de lei." Coe's Alexander's British Statutes in Force in Maryland (1912). This statute is cited by F. W. Maitland The Constitutional History of England, (II c Administration of Justice) perhaps as an early reference to the term "due process".

A. Kungle Jr for
Friends of Liberty

Appellant's

Reply Appendix iii

LIFE OF LORD CAMDEN (APPENDIX)

Lord Camden's Judgement in

Shipley's Case

Of the collections which George Hardinge had made of his uncle's speeches, &c., there is only preserved his judgement in "Shipley's appeal," characterized by him as "one of the noblest compositions in the world." The case has lost much of its interest, and the details of it would not be tiresome; but some passages from it must ever be read with delight and instruction.

The apellant, a yound man at the

University, had been expelled from his college for the supposed offence of publishing a libel, aggravated, as his accusers and judges chose to say, by his being guilty of "general immorality." The college being a royal foundation, he appealed to the King as visitor. The appeal was heard by the Lord Chancellor, who, in giving judgment, thus began: -

"This jurisdiction is exercised in the right of the King as visitor. It is, in its nature, very peculiar. It is a despotism uncontolled, and without appeal; the only one of the kind which is known in this kingdom.

"I contemplate with pleasure so numerous an assembly, as there is no restraint upon the visitor but his own character.

"I am called upon to annul, to alter, or to sustain, the sentence passed on Mr. Shipley, the appellant. It is a judgment against this young man, which carries in it a most heavy accusation. It not only convicts him of the first charge, but adds to it a character of `general immorality'.

"Mr. Shipley, in his appeal, relies on three objections: - 1. That the proceeding against him has been irregular. 2. That the proof was insufficient. 3. That the punishment is excessive.

"As to the first point, he says he was not duly charged; that he had not a fair hearing; and that he was not suffered by his accusers to adduce evidence in his defence. I shall not

proceed in this case as in appeals from an inferior to a superior jurisdiction by a writ or error, where nothing is to be argued but what appears upon the record. For having all parties before me, and a power of juding de novo, I shall do complete justice by punishing, as I ought, the delinquent on the one hand, and by censuring, or by punishing, the behavior of the College on the other, if it be such as I do not wish to see repeated."

Having stated the steps in the process he says, "Not considering here the import of the evidence, I shall pronounce that Mr. Shipley was condemned unheard, and without such previous trial as natural justice required. Whether any fact was

proved against him or no, is not in this view of the subject material. Such a mode of proceeding is never to be justified or allowed by a Judge. It is a natural principle of justice engraved upon the heart - not acquired from booklearning - that no one is to be condemned unheard.

"It is no apology for these learned gentlemen to allege their ignorance of the municipal code. Let any one of them now lay his hand on his heart, and say he sincerely believes that Mr. Shipley's witnesses to prove his innocence, ought to have been rejected.

I could wish that persons who are intrusted, for ingenuous purposes, with a despotic power over youth, would understand the first principles

of justice. Were it a case of ordinary discipline, or of customary punishment, I should in this domestic forum, turn a very deaf ear to complaint, though as representing the royal visitor, I can reverse any act. I should wish, in all such cases, to leave the governors of a college almost absolute. But in the case of expulsion, I wish for temper, and I must have it, for I must claim it. That punishment is extreme. It is capital. It inflicts academic death. An independent member of the college is, by this mark upon him, sent home degraded, striped of his degrees, and of advantages in certain professions. He comes into the world introduced by odium of character. I should expect that a proceeding, to

be attended with such consequences, should be regularly instituted, should be conducted with temper, should be supported by solid proof, and be satisfactory to all reasonable minds.

"The next branch of the charge, imputing `general immorality,' is liable to heavier animadversion. It is most extraordinary that Mr. Shipley, after his first examination, in which this imputation had never been mentioned, should have a sentence read against him which convicts him of `immoral habits' unheard, unaccused, unprepared. I am free to assert, that in this part of this proceeding the respondents have behaved extremely ill; and when I consider the learning of these

gentlemen, I am astonished at the fact which proves them to have branded a young man's character for ever, as far as their power extended, without putting him on his defense."

He then, as if a Judge in the first instance, enters into the merits of the case, and, upon an examination of the evidence, having acquitted the appellant of the charge of publishing the libel, comes to the "general immorality;" - "No one can appreciate the extent of this charge. What is it? or what is it not? It includes atheism, baseness, want of probity. If it had stood, it would have ruined this young man for ever. But I pronounce, that no proof maintains this charge; and I am bold enough to add, that in making it, the Dean and

Chapter have infringed the first principles of common justice."

J. Campbell,

Lives of the Lord Chancellors,

(Philadelphia, 1851,

2nd American after 3rd English edition)